



Federal Communications Commission
Washington, D.C. 20554

OCT 14 1998

IN REPLY REFER TO:
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The Honorable John B. Breaux
United States Senate
516 Hart Senate Office Building
Washington, D. C. 20510-1803

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OCT 15 1998
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Dear Senator Breaux:

This is in response to your letter on behalf of your constituent, the Honorable Thomas L. Burke, Assistant Secretary of the Louisiana Department of Revenue, regarding the Commission's implementation of Section 255 of the Communications Act (Section 255), added by the Telecommunications Act of 1996. Section 255 requires that telecommunications equipment manufacturers and service providers must ensure that their equipment and services are accessible to persons with disabilities, to the extent that it is readily achievable to do so. In adopting Section 255, Congress gave the Commission two specific responsibilities, to exercise exclusive jurisdiction with respect to any complaint filed under Section 255, and to coordinate with the Architectural and Transportation Barriers Compliance Board (Access Board) in developing guidelines for the accessibility of telecommunications equipment and customer premises equipment.

The Commission adopted a Notice of Inquiry in September 1996, initiating WT Docket 96-198 and seeking public comment on a range of general issues central to the Commission's implementation of Section 255. The Commission also adopted a Notice of Proposed Rule Making (NPRM) in April 1998, which sought public comment on a proposed framework for that implementation. The NPRM examined the Commission's legal authority to establish rules implementing Section 255, including the relationship between the Commission's authority under Section 255 and the guidelines established by the Access Board in February 1998. The NPRM further solicited comment on the interpretation of specific statutory terms that are used in Section 255, including certain aspects of the term "readily achievable," and the scope of the term "telecommunications services." In addition, the NPRM sought comment on proposals to implement and enforce the requirement that telecommunications equipment and services be made accessible to the extent readily achievable. The centerpiece of these proposals was a "fast-track" process designed to resolve many accessibility problems informally, providing consumers with quick solutions.

I would like to respond to Mr. Burke's specific complaint regarding the apparent incompatibility between hearing aids and cellular handsets. There are two basic technologies used in cellular systems: analog and digital. Unfortunately, certain technical characteristics of digital systems may render hearing aids susceptible to interference when cellular handsets are operated in proximity to the hearing aid. Manufacturers of both hearing aids and cellular

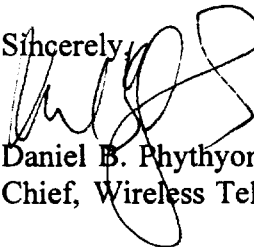
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handsets are aware of this problem, and have indicated to the Commission that they are actively working to overcome it. However, analog cellular handsets do not share this technical problem, and as a result there are several such handsets that work with many hearing aids, either directly or through specialized interface devices. I suggest that Mr. Burke consult with the cellular companies in his area to determine which offer analog service, and what handsets would work for him.

With respect to the Section 255 NPRM, it is important to note that the Commission has not issued a final decision regarding any of the proposals suggested in the NPRM. The record in this proceeding closed on August 14, 1998, and the Commission staff is currently reviewing public comments. Since the passage of Section 255, the Commission has worked closely with the Access Board and with various commenters to design an implementation framework that best reflects the intent of Congress in adopting Section 255. Mr. Burke's comments will be included as an informal comment in the record of WT Docket 96-198, and carefully considered, along with the many other comments, before final action is taken on this critically important matter. I appreciate Mr. Burke's input as a way of establishing as thorough and representative a record as possible on which to base final rules implementing Section 255.

Sincerely,



Daniel B. Rhythyon
Chief, Wireless Telecommunications Bureau

JOHN BREAU
LOUISIANA

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August 31, 1998

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Ms. Karen Kornbluh
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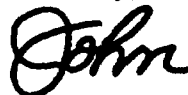
Dear Ms. Kornbluh:

I have been contacted by Mr. Thomas L. Burke regarding concerns about the effects of FCC implementation of the Telecommunications Act of 1996 on the disabled.

I ask that you please give Mr. Burke's views and concerns every appropriate consideration within federal guidelines. Any information you can provide responding to his concerns will be greatly appreciated. Your reply may be forwarded to the attention of Jeff Lewis.

Thank you for your attention and assistance.

Sincerely,



JOHN BREAU
United States Senator

JB/jhl
Enclosure

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Thomas L. Burke
11935 Parkwood Dr.
Baton Rouge, La. 70815

July 9, 1998

The Honorable John Breaux
U.S. Senate
Washington DC. 20510

**RE: FCC Notice of Proposed Rulemaking for Section
255/Telecommunications Act of 1996**

Dear Senator Breaux:

The FCC is undermining the Americans with Disabilities Act as called for in Section 255 of the Telecommunications Act of 1996 and I need your help. I have never been a big fan of Congress but one of the few things they did right was to pass the ADA.

I am a hard-of-hearing person who is fully functioning in the hearing world. Unfortunately, the FCC is allowing manufacturers to make telecommunications equipment that is not compatible for people with hearing aids.

In my job as an assistant secretary of the Louisiana Department of Revenue, I am one of the few appointed officials unable to have access to a cellular phone. After a futile, lengthy, and embarrassing search, I learned that not one company manufactures a cellular phone compatible with hearing aids. I'm not a rocket scientist, but hearing aids with telephone adapters were on the scene long before cellular phones made their ubiquitous debut. There is no reason why the hearing-impaired can't have access to this now necessary product.

When Congress wrote the Telecommunications Act, it adopted the term "readily achievable" from the ADA to describe a company's obligation to make products accessible. The FCC deviates dramatically from the readily achievable standard that has traditionally been used in disability law by introducing the concept of "cost recovery". This means the manufacturer determines if an accessibility feature will pay for itself. If it doesn't, the feature isn't added. Thus there are no telecoils in cellular phones that will enable hearing aid users to use them. This is wrong.

Thank you for your help in this matter.

Sincerely,



Thomas L. Burke